

Tex Hall, President
National Congress of American Indians
Testimony
S. 147, Native Hawaiian Government Reorganization Act
March 2, 2005
Senate Committee on Indian Affairs

Dosha! Good afternoon Chairman McCain, Vice-Chairman Dorgan, and members of the Committee. My name is Tex Hall, and I am the President of the National Congress of American Indians and Chairman of the Mandan, Hidatsa and Arikara Nation of North Dakota. NCAI is the oldest and largest tribal government organization in the United States, and remains dedicated to protecting tribal self-government, treaty rights and the federal trust relationship.

On behalf of NCAI, thank you for this opportunity to testify in support of S. 147, the Native Hawaiian Government Reorganization Act. Representatives from NCAI first offered testimony in support of this legislation in 2000. NCAI's strong support for federal reaffirmation of Native Hawaiian sovereignty and the creation of a process that will lead to self-determination for Native Hawaiian people has not changed.

Over the past five years, the member tribes of NCAI have approved four resolutions that support the sovereign rights of Native Hawaiians and call on the federal government to establish a true government-to-government relationship with the Hawaiian Nation. The most recent of these resolutions, PHX-03-004, is attached to our testimony. NCAI member tribes have also adopted dozens of other resolutions that support the rights of Native Hawaiians on issues ranging from repatriation of cultural remains, to language retention programs, to education, to veterans benefits.

Like all of our nation's indigenous peoples, Native Hawaiians lived on the land and governed their own affairs for thousands of years before the first European contact. For many years the United States and nations all over the world recognized the government of the Native Hawaiians – the Kingdom of Hawai'i – as a sovereign political entity and a valued partner in commerce and trade. The United States signed several treaties with the Kingdom of Hawai'i.

Since the overthrow, Native Hawaiians have suffered more than a century of injustice, including neglect and abuse of Native Hawaiian entitlements and human civil rights. In 1993, the federal government acknowledged the wrongdoing on its part in relations with the Native Hawaiian people when Congress passed the Apology Bill. The Apology Bill also recognizes that "the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as people over their national lands to the United States." Reaffirmation of the inherent Native Hawaiian right to self-governance by the federal government is long overdue.

In addition to rectifying a long-standing injustice, there is another important reason for the speedy passage of S. 147: in 2000, the United States Supreme Court decided *Rice v.*

Cayetano, a case which determined that the election of trustees of the Office of Hawaiian Affairs solely by Native Hawaiians violated the Fifteenth Amendment of the U.S. Constitution. This decision allowed non-natives to run for office positions in the OHA, and thus put the interests of the Native people in jeopardy. The Court's decision in Rice v. Cayetano has lead to similar lawsuits challenging education, housing, land, and other programs intended to benefit Native Hawaiians. In part to remedy the untenable situation created by Rice v. Cayetano, passage of S. 147 will lead to the creation of a system by which Native Hawaiian people may organize and create their own governing entity that the United States will recognize.

It is clear that Native Hawaiians must support any process designed for this purpose in order for it to be successful. NCAI has, and will continue to support, the path the Native Hawaiian people choose to assure their self-determination.

Before I conclude my testimony, I would like to briefly address one specific issue concerning the bill. When this bill was first introduced in 2000, many people questioned the possible effect that federal recognition of a Native Hawaiian government could have on funding for Indian programs. In this regard it is important to note that when Senator Inouye assumed the Chairmanship of the Senate Committee on Indian Affairs in 1987, he pledged that Native Hawaiian programs would never be funded at the expense of Indian programs. In the ensuing 18 years, all Native Hawaiian program funds have been appropriated separately. We continue to have faith that the assurances of the Committee Chairman are binding commitments on this matter.

In addition, Section 9 of this bill was added later to insure that any appropriations for Native Hawaiians would be secured independent of the Bureau of Indian Affairs. This provision in the legislation should put the matter to rest, but NCAI would request that the Committee consider clarifying the language of this section to reflect that it is not limited only to BIA appropriations, but also includes appropriations for the Indian Health Service and other services provided to Indians by the United States.

Mr. Chairman, as you well know, the very survival of Native cultures is dependant on Native peoples retaining the ability to control our affairs and govern ourselves. The first and most important step in retaining this control is federal recognition of the right to self-government. In my recent State of Indian Nations address, I described NCAI's vision of Indian tribes governing their own affairs, maintaining their cultures and values, and enriching the lives of their citizens and all the citizens of our great country. This is a vision that extends to Native Hawaiians, and, as President of NCAI I urge you and the Senate Committee on Indian Affairs to support and promote this long-overdue reaffirmation of Native Hawaiians' inherent right to self-government.
